

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

<b>In the matter of:</b>	)	<b>Complaint No. 01-93 (Revised December 21, 2001) for Administrative Civil Liability</b>
	)	
<b>Centex Homes</b>	)	
<b>7555 Irvine Drive. Suite 100</b>	)	
<b>Irvine, CA 92618</b>	)	
	)	
<b><u>Attn: Rick Wood</u></b>	)	

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. Centex Homes is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385(c)(2) of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on December 7, 2001, at the City Council Chambers, City of Loma Linda. Centex Homes or its representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The storm water runoff from Centex Homes' construction site, Saint Anne Place, in the City of Orange, is regulated under State's General Permit for Storm Water Runoff Associated with Construction Activities, Order No. 99-08-DWQ, NPDES No. CAS000002 (General Permit), WDID No. 8 30S313666.
5. Centex Homes is alleged to have violated Provisions A.2, B.1, and B.3, of the General Permit. Provision A. 2 states, "Discharges of material other than storm water which are not otherwise authorized by an NPDES permit to a separate storm sewer system (MS4) or waters of the nation are prohibited, except as allowed in Special Provisions for Construction Activity, C. 3." Provision B. 1 states, "Storm water discharges and authorized nonstorm water discharges to any surface or ground water shall not adversely impact human health or the environment." Provision B.3 states, "Should it be determined by the discharger, SWRCB, or RWQCB that storm water discharges and/or authorized nonstorm water discharges are causing or contributing to an exceedance of an applicable water quality standard, the discharger shall:
  - a) Implement corrective measures immediately following discovery that water quality standards were exceeded, followed by notification to the RWQCB by

telephone as soon as possible but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report within 14-calendar days to the appropriate RWQCB, unless otherwise directed by the RWQCB, describing (1) the nature and cause of the water quality standard exceedance; (2) the BMPs currently being implemented; (3) any additional BMPs which will be implemented to prevent or reduce pollutants that are causing or contributing to the exceedance of water quality standards; and (4) any maintenance or repair of BMPs. This report shall include an implementation schedule for corrective actions and shall describe the actions taken to reduce the pollutants causing or contributing to the exceedance.

b) The discharger shall revise its SWPPP and monitoring program immediately after the report to the RWQCB to incorporate the additional BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring needed." Centex Homes failed to properly implement effective Best Management Practices (BMPs) and discharged pollutants to waters of the United States from the construction site. Pursuant to California Water Code Section 13385 (a)(2), civil liability may be imposed for the preceding violations.

6. This complaint is based on the following facts:

a) On July 27, 2001, Board staff conducted a routine compliance inspection of the Saint Anne Place construction site. During the inspection, two unauthorized, non-storm water discharges were noted. Staff observed a contractor washing off stucco equipment located on Apache Creek Road and Paragon Street. The mortar-laden discharge flowed south and entered the catch basin at the corner of Apache Creek and Serano Avenue. BMPs implemented at the catch basin, intended to prevent pollutants from entering the storm drain, were in need of repair and maintenance. The second unauthorized, non-storm water discharge was observed on Fairport Street, coming from a garden hose used to mix mortar for a cinder block wall that was being installed. The discharge flowed south down Fairport, onto Paragon, then traveled west to the catch basin located at the end of the cul-de-sac, where ineffective BMPs allowed pollutant-laden discharges to enter the catch basin. Regional Board staff instructed Centex Homes that they must stop or control all non-storm water discharges from the project.

b) On August 3, 2001, Board staff conducted a follow-up inspection and noted that unauthorized, non-storm water discharges were still occurring at the site. The source of this discharge originated at the model homes where a contractor had just power washed the driveways of the three models. The discharge flowed to an unprotected catch basin inlet located in a developed residential area. A lack of good general housekeeping practices was observed throughout the project. For example, a mound of cement residue was stored on the corner of Apache Creek Road and Paragon and allowed to discharge directly to the street curb. A large amount of sediment was observed in the street curbs originating from construction activities. No BMPs were in place to prevent discharges from leaving the active portion of the construction project.

Regional Board staff instructed Centex Homes again to stop all non-storm water discharges from leaving the project site.

7. Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385(c) provides that a regional board may administratively impose civil liability in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. Additional liability, not to exceed \$10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons.
8. Pursuant to Section 13385(c), Centex Homes is civilly liable in the amount of \$20,000 (\$10,000 per day for two days of violation and no additional liability based on discharge volume, as it is not clear that the unauthorized, non-storm water discharges exceeded 1,000 gallons) for the violations cited in Paragraph 5, above. The total maximum assessment is therefore \$20,000.
9. Regional Board staff spent a total of 8 hours investigating this incident (@\$70.00 per hour, the total cost for staff time is \$560.00). Centex Homes saved approximately \$3,000 by not implementing appropriate BMPs. These factors were considered in assessing the penalty indicated in Paragraph 10, below.
10. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes that administrative civil liability be imposed on Centex Homes by the Board in the amount of \$10,000 for the violations cited above.

### **WAIVER OF HEARING**

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed in Paragraph 10, above, to:

Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

If you have any questions, please contact Mark Smythe at (909) 782-4998 or Michael Adackapara (909) 782-3238, or contact the Regional Board's staff counsel, Jorge Leon, at (916) 341-5180.

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Date

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Gerard J. Thibeault  
Executive Officer

In the matter of:	)	Complaint No. 01-93 (Revised 12/21/01)
	)	for
Centex Homes	)	Administrative Civil Liability
7555 Irvine Center Drive	)	
Suite 100	)	
Irvine, CA 92618	)	
	)	
Attn: Rick Wood _____	)	

### WAIVER OF HEARING

I agree to waive Centex Homes' right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-93 (Revised). I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of \$5,000. In addition, I will issue a check, made payable to the Santiago Oaks Regional Park, for the Supplemental Environmental Project in the amount of \$5,000. I understand that I am giving up Centex Homes' right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

\_\_\_\_\_  
Date

\_\_\_\_\_  
for Centex Homes